

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
CYNTHIA THORNTON and FAIN KOLINSKY, a/k/a  
Fain Clark, individually and on behalf of all others  
similarly situated,

Case No.  
09 CV 5901 (LAK)(DF)

Plaintiffs,

-against-

BELKIN, BURDEN, WENIG & GOLDMAN, LLP,

Defendant.  
-----X

**JOINT NOTICE OF MOTION FOR  
CONDITIONAL APPROVAL OF CLASS ACTION  
SETTLEMENT, CERTIFICATION OF  
CONDITIONAL SETTLEMENT CLASS, AND  
APPROVAL OF CLASS NOTICE**

PLEASE TAKE NOTICE that upon the Affidavit of James B. Fishman dated October 20, 2010, and the exhibits attached thereto, together with the accompanying memoranda of law, and upon all prior pleadings and papers heretofore had herein, the undersigned counsel for Plaintiffs and Defendant will move this Court at a date to be determined, before the Honorable Debra Freeman at the United States Courthouse for the Southern District of New York located at 500 Pearl Street, Courtroom \_\_\_, New York, new York, for an Order:

(1) Pursuant to Fed. R. Civ. Proc. 23(b)(2), granting conditional certification of a settlement class defined as:

All persons who are consumers, as defined by the FDCPA, who in the one year period prior to the commencement of this action on June 26, 2009, were sent a Notice by the defendant which is the same or substantially similar to the letters which are attached to the Complaint as Exhibits A and B;

(2) Pursuant to Fed. R. Civ. Proc. 23(e), approving conditionally the

settlement of this action upon the terms and conditions set forth in the Settlement Agreement annexed as Exhibit 1 to the Affidavit of James B. Fishman in Support of Joint Motion for Preliminary Approval of Settlement;

(3) Conditionally approving the defined Class for the purposes of Settlement;

(4) Pursuant to Fed. R. Civ. Proc. 23(e)(1)(B), approving the form and substance of, and the directing the manner of service of, the notice to the Class as set forth in the Exhibit 2 to the Declaration of James B. Fishman in Support of Joint Motion for Preliminary Approval of Settlement;

(5) Setting a date, time and place for a Fairness Hearing; and

(6) Granting the parties to this action and the Class such other and further relief as this Court may deem just and proper.

Dated: Garden City, New York  
October 20, 2010

FISHMAN & MALLON, LLP

By: 

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Kevin Mallon, Esq. (KM 4798)

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By: 

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Defendant's Counsel  
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Fax (516)294-8202  
mrice@lbccclaw.com

**AFFIDAVIT OF SERVICE**

STATE OF NEW YORK )

ss.:

COUNTY OF NASSAU )

PATRICIA A. LAZO, being duly sworn, deposes and says that deponent is not a party to the within action, is over 18 years of age and resides in Nassau County, New York.

That on the 20th day of October, 2010, deponent served the within **JOINT NOTICE OF MOTION, DECLARATION OF JAMES B. FISHMAN, and EXHIBITS** upon:

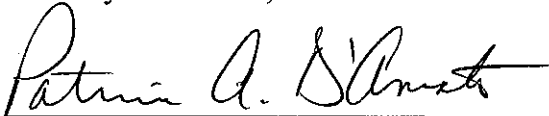
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the attorney(s) for the respective parties in this action, at the above address(es) designated by said attorney(s) for that purpose, via Electronic Court Filing (ECF).

  
PATRICIA A. LAZO

Sworn to before me this  
20th day of October, 2010.



Notary Public  
**PATRICIA A. DAMATO**  
Notary Public, State of New York  
No. 01DA5022281  
Qualified in Suffolk County  
Commission Expires January 3, 2014